

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-2334

Tracey Toles,

Appellant,

v.

Coastal Mart, Inc.; Mark Thornburg,

Appellees.

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Appeal from the United States
District Court for the
Northern District of Iowa.

[UNPUBLISHED]

Submitted: April 29, 2004

Filed: May 12, 2004

Before BYE, McMILLIAN, and RILEY, Circuit Judges.

PER CURIAM.

Tracey Toles appeals the district court's¹ adverse grant of summary judgment in her action brought under Title VII, 42 U.S.C. § 1981, and the Iowa Civil Rights Act. Toles sued her former employer, Coastal Mart, Inc., and its area manager, Mark Thornburg, claiming race discrimination. Having carefully reviewed the record, see Jacob-Mua v. Veneman, 289 F.3d 517, 520 (8th Cir. 2002), we affirm.

¹The Honorable G. Thomas Eisele, United States District Judge for the Eastern District of Arkansas, sitting by designation in the Northern District of Iowa.

Specifically, we reject Toles's argument that the district court erred by concluding defendants' actions were insufficient to create a trialworthy hostile-work-environment claim, see Burkett v. Glickman, 327 F.3d 658, 662 (8th Cir. 2003) (for hostile-work-environment claim to succeed, alleged conduct must be so extreme as to change terms and conditions of employment); and we also reject her contention that the district court improperly declined to consider her retaliation claim, see Speer v. Rand McNally & Co., 123 F.3d 658, 665 (7th Cir. 1997) (district court was well within its discretion not to permit plaintiff to proceed on new theory, raised first in summary judgment resistance, as discovery had ended and summary judgment ruling was pending). Accordingly, we affirm. See 8th Cir. R. 47B.
